

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
EVA'S PHOTOGRAPHY, INC.,

Plaintiff,

against

RACHEL KATZ, LLC,

Defendant.

CIVIL ACTION NO.: 20 Civ. 4663 (VEC) (SLC)

**ORDER TO COMPLY WITH THE COURT'S
SETTLEMENT PRACTICES**

SARAH L. CAVE, United States Magistrate Judge.

The Court rescheduled the Settlement Conference in this matter from Thursday, September 17, 2020 to Monday, November 9, 2020 at 2:00 pm, with settlement submissions due yesterday, Wednesday, November 4, 2020. (ECF Nos. 8, 14). The Court's Settlement Conference Scheduling Order and Standing Order Applicable to Settlement Conferences ("Court's Settlement Practices") are clear that:

Plaintiff is directed to make a settlement demand to the defendant (or reaffirm any prior demand) no later than fourteen (14) days before the settlement conference. Defendant shall inform Plaintiff of its response to the demand no later than seven (7) days before the conference. If either party fails to comply with this requirement, the other side must promptly remind that party of its obligation to comply.

(ECF No. 8 at 1–2) (emphasis added). The Court's Settlement Practices also require that no later than four business days before the conference, each party shall submit to the Court and opposing counsel a pre-conference letter bearing on settlement that includes the history of settlement negotiations, including prior offers and demands. (Id. at 4).

Plaintiff's counsel sent an email to the Court, stating in pertinent part, "You can use the same mediation statement and attendance form from September for the mediation next week." (Email of Richard Liebowitz, Nov. 4, 2020). The Court expects parties to be more respectful in

addressing the Court, especially where counsel appears not to have complied with the Court's order to make, or reaffirm, a settlement demand within fourteen days of the settlement conference, that is, by Monday, October 26, 2020. Under the Court's Settlement Practices, the Court should have been promptly advised that Plaintiff's counsel did not make or reaffirm a settlement demand within fourteen days of the Settlement Conference. (ECF No. 8 at 1).

The Court's Settlement Practices serve a purpose, to prepare the Court and the parties for a productive settlement conference. Given the failure to inform the Court of the status of recent settlement discussions,¹ if any, the Court is unable to determine whether proceeding with the Settlement Conference as scheduled will be a productive use of the Court's and the parties' time. Accordingly, **by 5:00 pm on Friday, November 6, 2020**, Plaintiff's counsel is ORDERED to contact defense counsel and provide (or reaffirm) a settlement demand. **By 5:00 pm on Sunday, November 8, 2020**, the parties are ORDERED to jointly email the Court to advise whether they anticipate that the Settlement Conference is likely to be productive and should proceed.

In light of the parties' earlier request that the settlement conference proceed by telephone (see ECF No. 12), the Settlement Conference, if it is held, will be held remotely by telephone. At the scheduled date and time, the parties shall call the Court's conference line at 866-390-1828, access code 3809799. All counsel who intend to speak during the call must use a landline or phone with equivalent quality.

¹ The September settlement submissions do not address the status of negotiations after September 11, 2020.

The Clerk of Court is respectfully directed to calendar this conference as a Settlement Conference even though it will take place by phone.

Dated: New York, New York
November 5, 2020

SO ORDERED


SARAH L. CAVE
United States Magistrate Judge